



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R03-OAR-2008-0929; FRL- 9746-2]**

**Approval and Promulgation of Air Quality Implementation Plans; Maryland; Attainment Demonstration for the 1997 8-Hour Ozone National Ambient Air Quality Standard for the Philadelphia-Wilmington-Atlantic City Moderate Nonattainment Area**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving the attainment demonstration portion of the attainment plan submitted by the State of Maryland as a State Implementation Plan (SIP) revision. The Maryland SIP revision demonstrates attainment of the 1997 8-hour ozone national ambient air quality standard (NAAQS) for the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE moderate nonattainment area (Philadelphia Area) by the applicable attainment date of June 2011. EPA is approving the SIP revision in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This final rule is effective on [insert date 30 days from date of publication].

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number **EPA-R03-OAR-2008-0929**. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are

available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:** Rose Quinto, (215) 814-2182, or by e-mail at [quinto.rose@epa.gov](mailto:quinto.rose@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

On August 23, 2012 (77 FR 50966), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. The NPR proposed approval of the attainment demonstration portion of Maryland's attainment plan for the 1997 8-hour ozone NAAQS for the Philadelphia Area. The formal SIP revision (#07-05) was submitted by Maryland on June 4, 2007.

### **II. Summary of SIP Revision**

The SIP revision consists of the attainment demonstration portion of the attainment plan submitted by Maryland as a SIP revision on June 4, 2007 to demonstrate attainment of the 1997 8-hour ozone NAAQS for the Philadelphia Area by the applicable attainment date of June 2011. EPA previously approved other portions of the Maryland attainment plan submitted on June 4, 2007. *See* 75 FR 33172 (June 11, 2010). EPA has determined that the weight of evidence analysis that Maryland used to support the attainment demonstration provides sufficient evidence that the Philadelphia Area would attain the 1997 8-hour ozone NAAQS by the applicable

attainment date of June 2011. Specific requirements of the attainment demonstration and the rationale for EPA's proposed action to approve the attainment demonstration are explained in the NPR and in the technical support document (TSD) for the NPR and will not be restated here. No public comments were received on the NPR.

Separately, EPA conducted a process to find adequate the motor vehicle emission budgets (MVEBs) for Cecil County which are associated with the Maryland attainment demonstration for the Philadelphia Area. A notice was posted on EPA's website for a 30-day public comment period on the adequacy determination for the 2009 MVEBs associated with the attainment demonstration for Cecil County. No comments were received during the public comment period. Therefore, EPA finds adequate the MVEBs for transportation conformity purposes for Cecil County, Maryland.

### **III. Final Action**

EPA is approving the attainment demonstration portion of the attainment plan for the 1997 8-hour ozone NAAQS which was submitted by Maryland on June 4, 2007. EPA has determined that Maryland's SIP revision demonstrates attainment of the 1997 8-hour ozone NAAQS for the Philadelphia Area by the applicable attainment date. EPA has determined that the SIP revision meets the applicable requirements of the CAA. EPA is also approving and finding adequate the 2009 MVEBs associated with the attainment demonstration for Cecil County, Maryland.

## **IV. Statutory and Executive Order Reviews**

### **A. General Requirements**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

## **B. Submission to Congress and the Comptroller General**

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

### **C. Petitions for Judicial Review**

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action pertaining to the Maryland attainment demonstration for the 1997 8-hour ozone NAAQS for the Philadelphia Area may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

### **List of Subjects in 40 CFR part 52**

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 11, 2012.

W. C. Early,  
Acting Regional Administrator,  
Region III.

40 CFR part 52 is amended as follows:

PART 52 - [AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart V-- Maryland

2. In § 52.1070, the table in paragraph (e) is amended by adding the entry for the Attainment Demonstration for the 1997 8-Hour Ozone National Ambient Air Quality Standard and its Associated Motor Vehicle Emissions Budgets at the end of the table to read as follows:

§ 52.1070                      Identification of plan.

\*       \*       \*       \*       \*

(e) \* \* \*

Name of non-regulatory SIP revision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Additional explanation
*   *   *   *   *	*   *			
Attainment Demonstration for the 1997 8-Hour Ozone National Ambient Air Quality Standard and its Associated Motor Vehicle Emissions Budgets	Maryland–Philadelphia-Wilmington-Atlantic City Moderate Nonattainment Area	06/04/07	[Insert Federal Register publication date] [Insert page number where the document begins]	

3. In § 52.1076, paragraph (z) is added to read as follows:

§ 52.1076                      Control strategy plans for attainment and rate-of-progress: Ozone.

\*       \*       \*       \*       \*

(z) EPA approves the attainment demonstration portion of the attainment plan for the 1997 8-hour ozone NAAQS for the Philadelphia Area submitted as a revision to the State Implementation Plan by the Secretary of the Maryland Department of the Environment on June 4, 2007. EPA also approves the 2009 motor vehicle emissions budgets associated with the attainment demonstration for Cecil County, Maryland.

**TRANSPORTATION CONFORMITY BUDGETS FOR THE MARYLAND PORTION OF THE  
PHILADELPHIA AREA**

<b>Type of control strategy SIP</b>	<b>Year</b>	<b>VOC (TPD)</b>	<b>NO<sub>x</sub>(TPD)</b>
Attainment Demonstration	2009	7.3	2.2

[FR Doc. 2012-26394 Filed 10/26/2012 at 8:45 am; Publication Date: 10/29/2012]